

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERK OF COURT
DISTRICT OF MASS.
APR 8 2005

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
ARI ALVES TEIXEIRA,)
Defendant.)

CRIMINAL NO. 04-10001-RGS

MOTION FOR FINAL ORDER OF FORFEITURE

The United States of America, by its Attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, respectfully moves that this Court issue a Final Order of Forfeiture in the above-captioned case, pursuant to Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982. In support thereof, the United States sets forth the following:

1. On or about January 7, 2004, a federal grand jury sitting in the District of Massachusetts returned an Eight Count Indictment charging defendant Ari Alves Teixeira (the "Defendant" or "Teixeira"), with the following violations: Producing False Identification Documents, in violation of 18 U.S.C. § 1028(a)(1) and (b)(1), and Aiding and Abetting, in violation of 18 U.S.C. § 2, (Counts One, Three, and Five); Transferring False Identification Documents, in violation of 18 U.S.C. § 1028 (a)(2) and (b)(1), and Aiding and Abetting, in violation of 18 U.S.C. § 2, (Counts Two, Four, and Six); Possession of Document-Making Implements for Production of False Identification Documents, in

Allowed. R.D. Hearn DJ 4-11-05.

violation of 18 U.S.C. § 1028(a)(5) and (b)(1), and Aiding and Abetting, in violation of 18 U.S.C. § 2, (Count Seven); and Criminal Forfeiture, pursuant to 18 U.S.C. § 1028(b)(5), 18 U.S.C. §§ 981(a)(1)(c), and 982(a)(2)(B), and 28 U.S.C. § 2461(c), (Count Eight).

2. The Indictment sought the forfeiture, as a result of committing one or more of the false identification document offenses alleged in Counts One through Seven of the Indictment, of (1) any personal property used or intended to be used to commit the offense, pursuant to 18 U.S.C. § 1028(b)(5); (2) any property constituting, or derived from, proceeds obtained directly or indirectly, as the result of one or more of the offenses, pursuant to 18 U.S.C. § 982(a)(2)(B); and (3) any property, real or personal, which constitutes or is derived from proceeds traceable to one or more of the offenses, pursuant to 18 U.S.C. § 981(a)(1)(c), and 28 U.S.C. § 2461(c). Such property includes, but is not limited to, the following assets seized from Apartment 1, 58 Copeland Street, Quincy, Massachusetts, on or about December 17, 2003:

(a) Any and all equipment including, but not limited to, computers, including an HP Pavilion Central Processing Unit, and printers/scanners/copiers, including an HP PSC; and

(b) Approximately \$2,000.00 in United States Currency.

3. On or about May 6, 2004, the Defendant filed a Seized Asset Claim Form with U.S. Customs and Border Protection claiming

ownership of \$1,000.00 in United States Currency seized on or about December 17, 2003, from Apartment #1, 58 Copeland Street, Quincy, Massachusetts (the "Defendant Currency").

4. On or about May 17, 2004, the Defendant filed a Memorandum of Points and Authorities Regarding Defendant's Request to Tender a Change of Plea Pursuant to North Carolina v. Alford.

5. On or about May 18, 2004, at a change of plea hearing, the Court allowed the Defendant to enter a plea of no contest to Counts One through Seven of the Indictment. Based on this plea, the Defendant specifically forfeited, to the United States, the Defendant Currency.

6. On or about July 8, 2004, a sentencing hearing was held whereby Teixeira was convicted of Counts One through Seven of the Indictment and was sentenced to time served on each of the seven counts, along with a sentence of two years supervised release.

7. On or about July 23, 2004, this Court issued a Judgment in a Criminal Case, and declared that Teixeira shall forfeit the Defendant Currency to the United States, as the Defendant Currency was subject to forfeiture based upon the Defendant's conviction.

8. On or about August 9, 2004, this Court issued a Preliminary Order of Forfeiture, pursuant to 21 U.S.C. § 853(a), as incorporated by 18 U.S.C. § 982, and Rule 32.2 of the Federal

Rules of Criminal Procedure, against the Defendant's interests in the Defendant Currency.

9. On December 16, 2004, December 23, 2004, and December 30, 2004, a Notice of Order of Forfeiture was published in the Boston Herald Newspaper pursuant to 21 U.S.C. § 853(n), as incorporated by 18 U.S.C. § 982 (see Exhibit A attached hereto).

10. By virtue of the Defendant's guilty plea and subsequent conviction on Counts One through Seven of the Indictment, the United States is now entitled to any and all interest the Defendant has in the Defendant Currency.

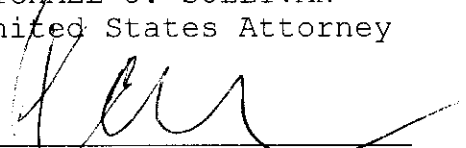
11. To date, no other claims of interest in the Defendant Currency have been filed with the Court and the time within which to do so has expired.

WHEREFORE, the United States respectfully requests that this Court enter a Final Order of Forfeiture against the Defendant Currency. A Proposed Order is submitted herewith for the convenience of the Court.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

BY:


KRISTINA E. BARCLAY
SETH P. BERMAN
Assistant U.S. Attorneys
1 Courthouse Way, Suite 9200
Boston, MA 02210
Telephone: (617) 748-3100

Date: April 8, 2005

CERTIFICATE OF SERVICE

I, Kristina E. Barclay, Assistant U.S. Attorney, hereby certify that a true copy of the foregoing Motion for Final Order of Forfeiture, as well as a proposed Final Order of Forfeiture, was served upon George F. Gromley, Esquire, 655 Summer Street, Boston, Massachusetts 02210, as counsel for Defendant Ari Alves Teixeira, by first class mail, postage prepaid.



Kristina E. Barclay
Assistant U.S. Attorney

Date: April 8, 2005

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Department of the Treasury
Federal Law Enforcement Agencies
PROCESS RECEIPT AND RETURN

| | | | |
|--|--|---|---|
| PLAINTIFF UNITED STATES OF AMERICA | | COURT CASE NUMBER CA No. 04-10001-RGS | |
| DEFENDANT(s) MARCOS PITH DEOLIVEIRA ROCHA, a/k/a LUCAS VALDARES, and ARI ALVES TEIXEIRA | | TYPE OF PROCESS Preliminary Order of Forfeiture | |
| SERVE AT | Name Of Individual, Company, Corporation, Etc. to Serve or Description of Property to Seize PUBLICATION | | |
| | Address (Street or RFD / Apt. # / City, State, and Zip Code) | | |
| Send NOTICE OF SERVICE copy to Requester: KRISTINA E. BARCLAY, ASSISTANT U.S. ATTORNEY UNITED STATES ATTORNEY'S OFFICE John Joseph Moakley United States Courthouse 1 Courthouse Way, Suite 9200 Boston, Massachusetts 02210 | | Number Of Process To Be Served In This Case. | |
| | | Number Of Parties To Be Served In This Case. | |
| | | Check Box If Service Is On USA | |
| SPECIAL INSTRUCTIONS or OTHER INFORMATION TO ASSIST IN EXPEDITING SERVICE (includes Business and Alternate Addresses, Phone Numbers, and Estimated Availability times.) Please publish the attached Notice of Order of Forfeiture at least once for three (3) successive weeks in the <u>Boston Herald</u> or any other newspaper of general circulation in the District of Massachusetts, in accordance with the attached Preliminary Orders of Forfeiture and applicable law. | | | |
| LJT x3364 | | | |
| Signature of Attorney or other Originator requesting service on behalf of | | <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant | Telephone No. (617) 748-3100 |
| SIGNATURE OF PERSON ACCEPTING PROCESS: | | Date Dec. 7, 2004 | |
| SPACE BELOW FOR USE OF TREASURY LAW ENFORCEMENT AGENCY | | | |
| I acknowledge receipt for the Total # of Process Indicated. | District of Origin No. | District to Serve No. | SIGNATURE OF AUTHORIZED TREASURY AGENCY OFFICER: |
| I hereby Certify and Return That <input type="checkbox"/> PERSONALLY SERVED, <input checked="" type="checkbox"/> HAVE LEGAL EVIDENCE OF SERVICE, <input checked="" type="checkbox"/> HAVE EXECUTED AS SHOWN IN "REMARKS", the Process Described on the Individual, Company, Corporation, Etc., At The Address Shown Above or at the Address Inserted Below. | | | |
| <input type="checkbox"/> I HEREBY CERTIFY AND RETURN THAT I AM UNABLE TO LOCATE THE INDIVIDUAL, COMPANY, CORPORATION, ETC. NAMED ABOVE. | | | |
| NAME & TITLE of Individual Served If not shown above: | | <input type="checkbox"/> A Person of suitable age and discretion then residing in the defendant's usual place of abode. | |
| ADDRESS: (Complete only if different than shown above.) | | Date of Service | Time of Service <input type="checkbox"/> AM <input type="checkbox"/> PM |
| | | Please see Remarks Section below | |
| | | Signature, Title and Treasury Agency Jan 20, 2005 Stephen P. Leonard, Forfeitures Officer | |
| REMARKS: U.S. Customs and Border Protection The above described Order was published in the <u>Boston Herald</u> newspaper as instructed above. Published on December 16, 23 and 30, 2004. A copy of the Publisher's Certificate is attached. | | | |

TD F 90-22.48 (6/96)

☐ RETURN TO COURT
 ☐ FOR CASE FILE
 ☐ LEAVE AT PLACE OF SERVICE
 ☐ FILE



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5th

Ad. ITH L. Presutti

Boston Herald

CRIM # 04-10001-RCS.

Dec 16, 23, 30

16, 23, 30 A.D. 20

5th

Notary

July 22, 2002

Contract No. DA-16001-RGS

Criminal No. 04-10001-RGS
District of Massachusetts
United States of America, Massachusetts,
at Boston, Massachusetts,
January 11, 2004 and August 9, 2004.

Notice is hereby given that a Preliminary Order of Forfeiture has been entered in the United States District Court against the interests of Defendants Marcolina, Deoliveira Rocha, and Ari Alves in the following lots of currency pursuant to title 21, United States Code, Section 853, title 18, United States Code, Section 582 as incorporated by title 18, United States Code, Section 582.

- * one HP pavilion Central Processing Unit

One MP cc 2175: and

* \$800.00 in United States Currency, seized from 58 Copeland Street, Apt. #1, Quincy, Massachusetts, on or about December 17, 2003.

(collectively referred to as the "Rochester Properties"); and

* \$1,000.00 In United States Currency seized from 58 Copeland Street, Apt. #1 Quincy, Massachusetts, on or about September 17, 1971. The Texela Currency.

upon adjudication of all third party interests the United States of America intend to dispose of the Roths Properties and the Leixelfs Currency in accordance with the law.

Pursuant to 21 U.S.C. § 853(c) (2) and (3), as incorporated by the Defendants, having no person, other than a legal interest, in the property claimed, the Defendants may, within thirty (30) days of the final publication of notice of receipt of this notice, whichever is earlier, petition the Court, for a hearing to adjudicate the validity of the purportedly alleged interest in the property, the petition and/or the hearing to be conducted in the District of Massachusetts, the District of Massachusetts must be held in the District of Massachusetts, and served upon the United States Attorney, Office, Asset Forfeiture Unit, 1 Court House Way, Suite 9000, Boston, Massachusetts 02210, within 15 U.S.C. § 853(c) as incorporated by the Defendants, 1987. The petition shall be signed by the petitioner, under oath, and shall set forth the nature of the petitioner's right, title, and interest in the forfeited assets, property, and/or the Lekera Currency, the time and circumstances of the petitioner's acquisition of the right, title, and interest in the assets, property, and/or the Lekera Currency, any claim, and the petitioner's basis and indication of the source of the assets, property, and/or the Lekera Currency, and the court will accept the petitioner's affidavit as true, unless the government can establish by a preponderance of the evidence that the assets, property, and/or the Lekera Currency were not lawfully acquired by the petitioner.

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